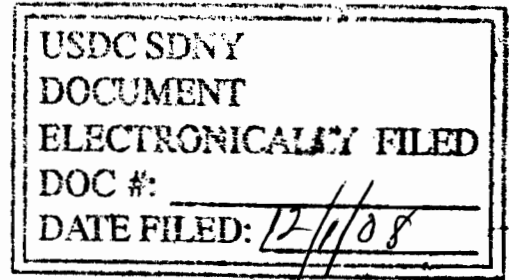


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



----- X
:
**IN RE: METHYL TERTIARY BUTYL
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION**
----- :

**CASE MANAGEMENT
ORDER #42**

This document relates to:

**Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88**

All Cases
----- X

SHIRA A. SCHEINDLIN, U.S.D.J.:

This Order memorializes the rulings made during the status conference held on October 30, 2008.

1. When a party seeks to dismiss an action, or to dismiss certain parties from an action, the party may make a motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and shall provide notice of the motion to all parties in the action. Any party that wishes to object to the dismissal must notify the Court of its intention to do so within 14 days of the filing of the motion. If the Court is not notified of any objections within this time period, any objection to the requested dismissal will be deemed waived.
2. In the *City of New York* case, all pretrial submissions must be completed by March 3, 2008. The full pretrial schedule will be completed by the next


status conference.

3. In the *City of New York* case, the parties will not select any “threatened wells” as focus wells for the bellweather trial. Defendants may preserve their objection to the bellweather trial approach either by stipulating that this Court’s prior rulings on the issue apply to this case or by filing a new motion.
4. In the *City of New York* case, the plaintiffs will submit to the defendants whatever new site testing data they have completed by November 5, 2008. With respect to the results of the City’s internal dependability study, if the City seeks to assert a pre-decisional privilege over otherwise discoverable material, the City should submit the putative privileged material to the Court for *in camera* review along with briefing on the law of pre-decisional privilege. The briefing schedule will be set at the next status conference.
5. In the *City of New York* case, the City must identify, by November 13, 2008, which of the taste and odor complaints the City alleges to be related to MTBE. By November 26, 2008, each side will choose five focus wells for trial.
6. With respect to the *New Jersey* and *Commonwealth of Puerto Rico* cases, the parties will attempt to agree upon, and submit, pre-trial schedules by the

next status conference.

7. For new focus cases, plaintiffs have selected *American Water of New Jersey* and defendants have selected *Village of Sands Point, New York*. The parties in both cases shall meet and confer to submit pre-trial schedules for these cases by the next status conference, with trial dates in each on June 29, 2009.
8. In the newly filed TSCA cases, if the defendants wish to file a motion to dismiss the non-TSCA claims and the non-TSCA defendants, they shall do so by November 21, 2008. Plaintiffs shall reply by December 19, 2008 and defendants shall reply by January 5, 2009.
9. The next status conference is scheduled for December 11, 2008 at 2:00 p.m.

SO ORDERED:


Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
December 1, 2008

-Appearances-

Liaison Counsel for Plaintiffs:

Robin Greenwald, Esq.
Robert Gordon, Esq.
Weitz & Luxenberg, P.C.
180 Maiden Lane
New York, New York 10038
Tel: (212) 558-5500
Fax: (212) 344-5461

Liaison Counsel for Defendants:

Peter John Sacripanti, Esq.
James A. Pardo, Esq.
McDermott Will & Emery LLP
50 Rockefeller Plaza, 11th Floor
New York, New York 10020
Tel: (212) 547-5583
Fax: (212) 547-5444